



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

271 Cadman Plaza East
Brooklyn, New York 11201

January 21, 2020

By ECF

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States of America v. Martin Shkreli,
Criminal Docket Nos. CR-15-0637 (KAM) (E.D.N.Y.)

Dear Judge Matsumoto:

The government respectfully writes to provide the Court with an update concerning the government's August 1, 2019 letter motion ("Motion") in which the government requests that the Court enter an order directing the Clerk of the Court to transfer funds on deposit in an interest bearing Court Registry Investment System ("CRIS") account to the Registry of the Court for distribution and application to the fine and restitution judgments imposed upon the defendant, Martin Shkreli ("Defendant"). [Dkt. 714] Specifically, the government writes to inform the Court that on November 18, 2019, the Supreme Court of the United States denied Defendant's Petition for a Writ of Certiorari. *See Shkreli v. United States*, No. 19-495, 2019 WL 6107802 (U.S. Nov. 18, 2019) *cert. denied*. As Defendant has now exhausted his appellate rights, and there were no other objections to the government's Motion, the government respectfully requests that the Court enter the attached amended proposed order.

By way of background, on March 9, 2018, Defendant was sentenced in connection with his conviction for securities fraud and conspiracy to commit securities fraud. [Dkt. 565] The Court imposed, *inter alia*, a fine in the amount of \$75,000 and a special assessment of \$300. *Id.* On April 9, 2018, the Court issued a restitution order, pursuant to the Mandatory Victims Restitution Act ("MVRA"), 18 U.S.C. § 3663A, *et seq.*, finding that victim Richard Kocher was owed restitution in the amount of \$388,336.49. Defendant filed a notice of appeal and an amended notice of appeal on March 26, 2018, and April 13, 2018, respectively. [Dkt. 568 and 581]

On July 10, 2018, upon application of the government, the Court issued an order, directing E*TRADE Securities LLC to withdraw \$464,894.13 from a brokerage

account belonging to Defendant, and to issue a check in that amount to the Clerk of Court, for application to the restitution and fine imposed against Defendant. [Dkt 636] (the “Turnover Order”). E*TRADE Securities LLC complied with the Turnover Order and the funds were received by the Clerk of the Court on September 26, 2018 (the “ETRADE funds”). Thereafter, on October 10, 2018, upon application of the government, and in consideration of Defendant’s pending appeal, the Court issued an Order directing the Clerk of the Court to transfer the funds on deposit with it to an interest-bearing CRIS account. [Dkt 684] Accordingly, the Clerk of the Court transferred \$465,083.29 to the CRIS account.¹

On July 18, 2019, the Second Circuit issued a decision affirming Defendant’s conviction and sentence. *United States v. Shkreli*, No. 18-CR-819, 2019 WL 3228933 (Summary Order) (2d Cir. July 18, 2019). Subsequently, on August 1, 2019, the government submitted the present Motion requesting that the Court enter an order directing the Clerk of the Court to transfer the funds on deposit in the CRIS account back to the Registry of the Court for distribution and application to the fine and restitution judgments imposed upon Defendant. [Dkt 714] On August 2, 2019, Defendant’s counsel submitted a response opposing the Motion solely on the ground that Defendant had not yet exhausted his right to appeal his conviction. [Dkt 715] Specifically, counsel cited Defendant’s intent to appeal his conviction and sentence to the United States Supreme Court as the basis for his opposition. *See Id.*

On October 10, 2019, Defendant filed a Petition for a Writ of Certiorari. On November 18, 2019, the Supreme Court denied Defendant’s petition. *See Shkreli v. United States*, No. 19-495, 2019 WL 6107802 (U.S. Nov. 18, 2019) *cert. denied*.

As of January 9, 2020, the amount on deposit in the CRIS account was \$477,529.40, and the balance owed by Defendant for the fine and restitution is \$468,504.40. Additionally, there is currently \$1025.19 on deposit with the Clerk of the Court in a noninterest-bearing account, which consists of payments made by Defendant through the Inmate Financial Responsibility Program after the transfer of funds into the CRIS account.

Based on the foregoing, the government respectfully requests that the Court execute the enclosed proposed order, directing the Clerk of the Court to transfer all funds on deposit in the CRIS into the Registry of the Court to be disbursed and applied, in the following order, to: (1) the principal and interest owed on Defendant’s restitution liability;

¹ The amount transferred to the CRIS account was \$189.16 more than the amount received from E*TRADE. The difference was the result of Defendant having paid \$771.34 towards his criminal monetary penalties prior to the transfer of the ETRADE funds. The first \$300 of these payments was applied to the assessment imposed against Defendant, as required by 18 U.S.C. § 3612(c), and \$282.18 was distributed by the Clerk of the Court to the victim identified in the judgment. The remaining \$189.16 was transferred to the CRIS account along with the ETRADE funds.

(2) the principal and interest owed on Defendant's fine; and (3) a refund of any resulting overpayment to Defendant. See 18 U.S.C. § 3612 (c) and (i).

The government thanks the Court for its attention to this matter.

Respectfully submitted,

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cc: Martin Shkreli (via First Class Mail)
Defendant

Counsel of Record (via ECF)

Richard Kocher (via First Class Mail)